THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.10669 OF 2004

Dated: October, 2005.

Between:

Ather Alam … Petitioner

And

1. The Commissioner of Police,
   Hyderabad & Cyberabad and
   others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.10669 OF 2004

ORDER :

This writ petition is filed seeking a Writ of Mandamus directing the respondents to close the rowdy-sheet opened against him in Nallakunta Police Station.

The petitioner states that he hailed from a respectable family and that he is an Engineering Graduate. It is also stated that he is eking out his livelihood by carrying on business, however due to some misunderstandings with the 3rd respondent - Inspector of Police, Nallkunta, he has been falsely implicated in several cases from the year 1985 onwards. The third respondent opened a rowdy-sheet against him in the year 1987 which is still maintained in the Police Station, Nallakunta. Consequently under the guise of the rowdy-sheet, the third respondent is regularly calling the petitioner and detaining him illegally in the police station whenever any festival comes which has resulted in constant interference with his Right to Privacy. He is also unable to carry on his business activities effectively and his family members are also being harassed and are put to mental agony. The petitioner alleges that from the year 1985 to 1990 altogether 11 criminal cases were registered against him and almost all the said cases ended in acquittal. That apart, after 1990 no criminal case has been registered against him. In spite of the same, the rowdy-sheet is being continued by the respondents which is arbitrary, illegal and violative of Article 21 of the Constitution of India. Hence, this writ petition.

The third respondent – Inspector of Police, P.S. Nallakunta filed a counter-affidavit denying all the allegations made and stating that the petitioner was involved in a number of criminal cases affecting the human body and the property and involving in breach of peace punishable under Chapter VIII, IX and VVI of the IPC and caused public nuisance on several times. He was prosecuted under the provision of Hyderabad City Police Act from 1985 onwards and due to his continuous involvement in the criminal offences, the then Inspect or of Police, Nallakunta PS opened a Rowdy-sheet against the petitioner as per the instructions of the then A.C.P., Kachiguda Division in the year 1987 to track down the petitioner and check his anti-social activities by keeping unobtrusive watch. It is also stated that the petitioner does not have any lawful business and that he is also in the habit of becoming out of view right from the year 1987 to evade surveillance on his anti-

social activities. It is further stated that altogether 15 crimes were registered against him for different offences in Nallakunta P.S. and other Police stations. The plea of the petitioner that he was not involved in any crime since 1991 has been categorically denied and it is stated that he was involved in Crime Nos. 1) Crime No.115/92 u/s. 25 of Arms Act of P.S. Nallakunta, 2) Crime No.257/93 u/s.307 IPC of Raidurg P.S. of R.R. District and 3) Crime No.709/96 u/s 8(b) of A.P. Prohibition Act of P.S. Nallakunta. After his release on bail, the petitioner jumped the bail and was absconding since then. The following cases are still pending in the concerned Courts against the petitioner.

1. Crime No.222/90 u/s.27 of Arms Act of P.S. Chaderghat.

2. Crime No.207/90 u/s.307, 452, 427 IPC of P.S. Kachiguda.

3. Crime No.709/96 u/s.8(b) A.P. Prohibition Act of P.S. Nallakunta.

It is also stated that since 1996 N.B.Ws. were pending against him. The petitioner was out of view to deter the police to track on his anti-social activities. After about 8 years, on 16.4.2004 the Police Kachiguda apprehended the petitioner and executed the N.B.W. in Crime No.207 of 1990. The rowdy-sheet against the petitioner is being reviewed frequently. Hence the interference by this Court is not warranted.

I have heard the learned Counsel for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

The learned Counsel for the petitioner submitted that the petitioner was acquitted in almost all the crimes registered against him and therefore there is absolutely no reason to continue the rowdy-sheet against him as on today. The learned Counsel contended that the impugned action of the respondents is contrary to the guidelines laid down under Standing Order No.742 of A.P. Police Standing Orders.

On the other hand, the learned Government Pleader vehemently contends that the petitioner is an anti-social element and a habitual offender and having regard to the case history of the petitioner, the rowdy-sheet is being rightly continued by the respondents which is in accordance with the guidelines under Standing Order No.742.

The Apex Court as well as this Court on a number of occasions held that rowdy-sheets cannot be opened against any individual in a casual and mechanical manner and that dubbing a person as an habitual offender and to open a rowdy-sheet is not sufficient. The Courts have reiterated the principle of law that the important element that has to be seen to continue a rowdy-sheet is whether the acts committed by a person will have a tendency to disturb public peace and tranquility. In EJAZ vs. GOVT.OF A.P. this Court having considered the scope of Standing Order No.742 of A.P. Police Standing Orders held that surveillance and monitoring the moments of persons against whom a rowdy-sheet is opened should be proportionate and commensurate to reasonable apprehension and with a view to prevent commission of a crime which may result in breach of peace. Similar view has been expressed in MOHD. QUADEER vs. COMMISSIONER OF POLICE. In S. SATYANARAYANA vs. STATE OF A.P. having reviewed all the relevant cases with regard to opening and retention of history-sheets/rowdy-sheets the principles of law have been enumerated in detail. A Division Bench of this Court in PUTTAGUNTA PASI vs. COMMISSIONER OF POLICE held that rowdy-sheet cannot be opened in a mechanical manner and that mere figuring of name of a person in two crimes is not sufficient to hold him as a habitual offender.

In the light of the principles laid down by the Courts, the learned counsel for the petitioner contends that rowdy-sheet can be continued against an individual only when the conditions specified in Standing Order No.742 of A.P. Police Standing Orders are satisfied.

In the case on hand, the specific allegation against the petitioner is that he is a habitual offender and an anti-social element. The petitioner disputes the same and states that he was falsely implicated in various criminal cases which ultimately ended in acquittal. It is also claimed that after 1990 no criminal case has been registered against him. However, the material produced before this Court shows that in S.C.No.321 of 1991 on the file of the I Additional Metropolitan Sessions Judge, Hyderabad, the petitioner was convicted for an offence under Section 302 of I.P.C. and was sentenced to suffer imprisonment for life. May be that, in the other cases, he

was acquitted. With regard to his plea that after 1990 no criminal case has been registered against him, the respondents contended that the petitioner is absconding since 1996.

Having regard to the facts and circumstances of the case and particularly in the absence of any material to conclusively establish that no cases are pending against the petitioner as on today and no crimes are registered against him after 1990, I am not inclined to record any finding on the said issue. Hence, the Mandamus as prayed for cannot be issued. Instead, I deem it appropriate to direct the respondents to review the case of the petitioner in the light of the principles of law laid down by the Courts from time to time and to pass appropriate orders with regard to the justifiability or otherwise of continuing the rowdy-sheet against the petitioner as on today. Such exercise shall be completed and appropriate orders be passed in accordance with law which shall be supported by reasons thereto as expeditiously as possible preferably within a period of eight (8) weeks from the date of receipt of this order and the same shall be communicated to the petitioner.

The Writ Petition is accordingly disposed of. No costs.

5th October, 2005.

gbs